

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

PATRICIA SMITH, ADMINSTRATRIX	:	
OF THE ESTATE OF MARTHA E.	:	CIVIL ACTION
SMITH; PATRICIA SMITH; MARY J.	:	
SCOTT,	:	NO. 08-05689
	:	
Plaintiffs,	:	
	:	
v.	:	
	:	
ALBERT EINSTEIN MEDICAL CENTER;	:	
ET AL.,	:	
	:	
Defendants.	:	

**Order**

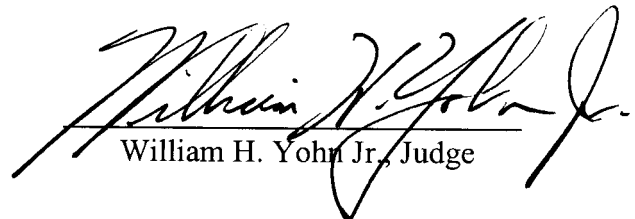
**AND NOW** on this 11<sup>th</sup> day of June 2009, upon consideration of defendants’ motions to dismiss (Doc. Nos. 7, 9, 13, 14, 16, 17, 20, 23, 34, 37) and plaintiffs’ responses thereto, **IT IS HEREBY ORDERED** that:

1. Defendants’ motions to dismiss plaintiffs’ complaint pursuant to Federal Rule of Civil Procedure 12(b)(1) are **GRANTED** as to plaintiffs’ claims of violations of civil rights;
2. Defendants’ motions to dismiss plaintiffs’ complaint pursuant to Federal Rule of Civil Procedure 12(b)(6) is **GRANTED** as to plaintiffs’ claim under the Emergency Medical Transfer and Active Labor Act (“EMTALA”), 42 U.S.C. § 1395dd (2006);
3. Pursuant to 28 U.S.C. § 1367(c)(3), the court will decline to exercise supplemental jurisdiction over plaintiffs’ state law claims;
4. Plaintiffs’ complaint is **DISMISSED** without prejudice to plaintiffs’ right to file

an amended complaint within 30 days of the date of this order or to file a complaint in an appropriate state court of general jurisdiction; and

5. Defendants' remaining motions to dismiss pursuant to Federal Rule of Civil Procedure 12(b)(5) and 12(b)(6) and defendants' motions for a more definite statement pursuant to Federal Rule of Civil Procedure 12(e) are **DISMISSED** as moot.

**IT IS HEREBY FURTHER ORDERED** that defendants' other remaining pending motions to dismiss (Doc. Nos. 38, 39, 53, 57, 58, 61) and defendants' praecipes to enter judgment (Doc. Nos. 54, 55) are **DISMISSED** as moot without prejudice to the right of defendants to reinstate them on the same papers, by letter request, should plaintiffs file an amended complaint.



William H. Yohn Jr., Judge